

Where to draw the line on race in a psychiatric hospital?

Originally published May 22, 2016 at 4:03 pm
The Seattle Times

A bizarre racial discrimination case at Western State Hospital poses complicated questions about race.

A racist threat of violence should be met with unequivocal punishment. We must stop that nonsense cold.

But here's a hypothetical: What if the threat comes from a patient at a psychiatric hospital threatening to beat up black staff members? Then what? Should the hospital accommodate him with only white staffers? Or does the hospital have a duty to confront racism, even if it is based on a delusion?

Actually, that's not a hypothetical. The state Supreme Court earlier this month heard a bizarre employment discrimination case out of Western State Hospital. It's one of the most provocative I've seen in awhile.

Here are the facts. In April 2011, a nurse named Patricia Blackburn clocked into a Saturday night shift on the hospital's ward for criminally committed patients and found a note from her supervisor.

Send staff to ward F8, it said. But don't send anyone who is black.

"Did you just say I had to send a white person to F8?" Blackburn asked her supervisor, incredulous.

No white staff members were available. So her team held an impromptu color test, pulling up their shirt sleeves to compare skin hues. The staff with the whitest arm went.

Seriously.

More facts: The patient in question, identified as M.P., had been at the hospital seven years, accumulating an appalling record of assaults. He is 6 feet 4 inches tall, 230 pounds, diagnosed with psychosis. He was at Western State after being found not guilty by reason of insanity for assault.

That Saturday night, M.P. had threatened to beat up any “n——” who came to treat him, but said an “alien” was fine. A psychiatric hospital is a strange place.

The “whitest arm” contest so irritated Blackburn and her colleagues that they sued for workplace discrimination. At a trial last year in Pierce County, the hospital’s former CEO, Ron Adler, defended the hospital’s unwritten practice of racial staffing in emergency situations.

“The hospital doesn’t perform staffing by racial discrimination or by race,” he said. “We perform staffing to meet the needs of the patient, the needs of staff based on safety issues.”

“And sometimes that includes race?” asked Blackburn’s attorney, Jesse Wing. “Yes,” said Adler.

Blackburn, who is white, and her colleagues, who are mostly not, lost when Pierce County Superior Court Judge Kitty-Ann van Doorninck ruled they hadn’t lost pay or their jobs.

Although this policy isn’t written down anywhere, testimony at that trial suggests it happens fairly often. Black staffers described being routinely called the “N word” by patients, being swapped out for white colleagues and complaining to supervisors about it.

In a statement, the state Department of Social and Health Services said it will “do what was necessary to keep staff and patients safe.” So the policy stands.

To be fair, the hospital has good reason to be concerned about safety. Assaults happen daily there. An Associated Press story counted 41,301 days of work lost due to injury in a four-year period.

And imagine the headline if a black staffer was crippled by a patient who'd threatened race-based violence.

But Wing, the attorney for nine hospital staff members who sued, argues that making staffing decisions based on patients' racial animus acknowledges their delusions. "And if patients are manipulating the staff, this feeds into the manipulation. It allows the patients to control who is treating them," Wing said.

The hospital is a hospital, not an asylum, and the patients are supposed to be released to a society that doesn't tolerate racist threats. Western State's own policies allow for medication, isolation or restraints when patients threaten violence.

An expert hired by Wing's team, Dr. Jeffrey Geller, the medical director at a Massachusetts state psychiatric hospital, analogized M.P.'s racist staffing demand to a patient claiming to be King George III and requiring all to stand up when he enters.

"He walks into the room and everybody stands up. Now we have just agreed with the patient that he's King George III," Geller said during the trial. "We've done nothing to assist him to understand, in fact, that he's not King George III, and when he says he's King George III, we're not going to respond as if he is."

The Supreme Court has been handed this swamp of racial politics. Wing cited *Plessy v. Ferguson* — the appalling "separate but equal" U.S. Supreme Court case from 1896 — in arguing against Western State's policy.

Whichever way the court rules, it likely will set a precedent. If I had a vote, I'd agree with Geller's King George III argument and tell Western State to find a different way to protect staff.

Dennis Fant was on shift that Saturday night on ward F8. He's a 60-year-old black man who went to work at Western State after 22 years in the military. At trial, he said the racial-staffing policy recalled his childhood during forced busing, when his school bus was pelted with rocks as it went through a white neighborhood.

"I felt as though Western State Hospital had betrayed me and betrayed my team," said Fant. "I felt somewhat violated."

Jonathan Martin's column appears regularly on editorial pages of The Times. His email address is jmartin@seattletimes.com